

Remarks

Claims 1-11 and 19 are pending in this application. Claims 1-9 and 11 are cancelled herein. Accordingly, claims 10 and 19 are now pending in this application.

Applicants note that the Examiner has not received the references submitted with the IDS of August 9, 2006. Such IDS is re-submitted along with copies of the cited references.

Objections to the Claims

Claims having non-elected subject matter have been cancelled or amended to delete said non-elected subject matter.

Claim 1 has been cancelled.

Claim 10 has been amended as suggested by the Examiner to add the term "and" in the appropriate position.

Claims having non-elected subject matter have been cancelled or amended to delete said non-elected subject matter.

Rejection under 35 USC § 112 – 1st and 2nd Paragraphs

The Office Action has asserted several rejections under section 112 which are handled following.

The Office Action rejects claims 1-11 and 19 under Section 112, 1st paragraph as being not enabled. Claims 1-9 and 11 are cancelled. The term "solvates" has been deleted from claims 10 and 19. Accordingly, applicants believe the rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejections be withdrawn.

The Office Action rejects claims 1-11 and 19 under Section 112, 2nd paragraph as being indefinite. The Examiner asserts that the term "derivative" is indefinite. Claims 1-9 and 11 are now cancelled. Claims 10 and 19 are amended to delete the term "derivative" from the claims. Accordingly, applicants believe the

rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejections be withdrawn.

Rejection under 35 USC § 103

Claims 1-3, 7-9, 11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al (US20060074119).

Initially, Applicants note that Andrews et al and the present application are commonly owned and therefore do not qualify as prior art according to 35 U.S.C. 103(c). The present application is owned by GlaxoGroup Limited and Andrews et al is owned by SmithKline Beecham Corporation both of which are wholly owned subsidiaries of GlaxoSmithKline plc. Attached hereto are the front Title page of Andrews et (US20060074119) and its PCT parent WO04/014899 which indicate ownership by SmithKline Beecham Corporation. Also attached is the notice of recordation for the present application indicating ownership by Glaxo Group limited. Accordingly, Applicants assert that the rejection is moot and request it be withdrawn.

Obviousness Type Double Patenting Rejection

Claims 1-3, 7-9, 11, and 19 are rejected under the doctrine of obviousness type double patenting over claims 1, 7, 14, 18, 19, 21, and 23 of US Ser. No. 10/522,958. Applicants note that claims 1-3 and 7-9 are cancelled herein and therefore the rejection is moot as to these claims.

As to claims 11 and 19, Applicants believe that these claims are unobvious over the subject matter of the claims of Andrews et al. Accordingly, Applicants assert the rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejection be withdrawn.

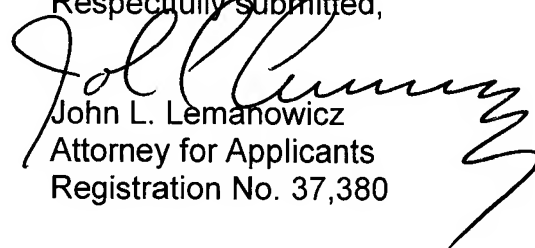
Conclusion

The points and concerns of the Examiner have been addressed in full. Applicants respectfully submit that the instant application is in condition for

allowance, which is respectfully requested. Should any issues remain unresolved in this application which would bar issuance, the Examiner is invited to contact the undersigned Attorney at (919) 483-6334 to discuss such issues.

Applicants believe that no fees are due in connection with the filing of this paper other than those specifically authorized herewith. However, should any other fees be deemed necessary to affect the timely filing of this paper the Commissioner is hereby authorized to charge such fees to Deposit Account No. 07-1392.

Respectfully submitted,


John L. Lemahowicz
Attorney for Applicants
Registration No. 37,380

Date: 26 August, 2008
Glaxo Smith Kline
Five Moore Drive, PO Box 13398
Research Triangle Park, North Carolina 27709
(919) 483-8247

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(71) Applicant (for all designated States except US):
SMITHKLINE BEECHAM CORPORATION
[US/US]; One Franklin Plaza, Philadelphia, PA 19101
(US).

(72) Inventors; and

(75) Inventors/Applicants (for US only): ANDREWS, III,
Clarence, W [US/US]; GlaxoSmithKline, Five Moore
Drive, PO Box 13398, Research Triangle Park, NC 27709
(US). CHEUNG, Mui [CN/US]; GlaxoSmithKline, Five
Moore Drive, PO Box 13398, Research Triangle Park,
NC 27709 (US). DAVIS-WARD, Ronda, G [US/US];
GlaxoSmithKline, Five Moore Drive, PO Box 13398, Re-
search Triangle Park, NC 27709 (US). DREWRY, David,
Harold [US/US]; GlaxoSmithKline, Five Moore Drive,
PO Box 13398, Research Triangle Park, NC 27709 (US).
EMMITTE, Kyle, Allen [US/US]; GlaxoSmithKline,
Five Moore Drive, PO Box 13398, Research Triangle Park,
NC 27709 (US). HUBBARD, Robert, Dale [US/US];
GlaxoSmithKline, Five Moore Drive, PO Box 13398,
Research Triangle Park, NC 27709 (US). KUNTZ, Kevin,
W [US/US]; GlaxoSmithKline, Five Moore Drive, PO
Box 13398, Research Triangle Park, NC 27709 (US).

LINN, James, Andrew [US/US]; GlaxoSmithKline, Five
Moore Drive, PO Box 13398, Research Triangle Park,
NC 27709 (US). MOOK, Robert, Anthony [US/US];
GlaxoSmithKline, Five Moore Drive, PO Box 13398,
Research Triangle Park, NC 27709 (US). SMITH, Gary,
Kelth [US/US]; GlaxoSmithKline, Five Moore Drive,
PO Box 13398, Research Triangle Park, NC 27709 (US).
VEAL, James, Marvin [US/US]; 8916 Weaver Crossing
Road, Apex, NC 27502 (US).

(74) Agents: LEVY, David, J et al.; GlaxoSmithKline, Five
Moore Drive, PO Box 13398, Research Triangle Park, NC
27709 (US).

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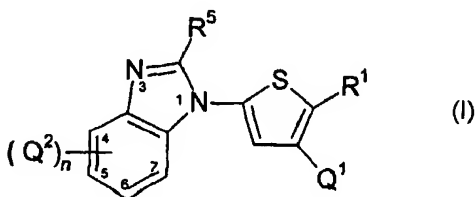
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(54) Title: THIOPHENE COMPOUNDS



(57) Abstract: The present invention provides compounds of for-
mula (I): (I) pharmaceutical compositions containing the same, pro-
cesses for preparing the same and their use as pharmaceutical agents.



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Andrews, III et al.(10) **Pub. No.: US 2006/0074119 A1**(43) **Pub. Date: Apr. 6, 2006**(54) **THIOPHENE COMPOUNDS****Related U.S. Application Data**

(76) Inventors: **Clarence W Andrews III**, Durham, NC (US); **Mui Cheung**, Durham, NC (US); **Ronda G Davis-Ward**, Durham, NC (US); **David Harold Drewry**, Durham, NC (US); **Kyle Allen Emmitte**, Durham, NC (US); **Robert Dale Hubbard**, Durham, NC (US); **Kevin W Kuntz**, Durham, NC (US); **James Andrew Linn**, Durham, NC (US); **Robert Anthony Mook JR.**, Durham, NC (US); **Gary Keith Smith**, Durham, NC (US); **James Marvin Veal**, Apex, NC (US)

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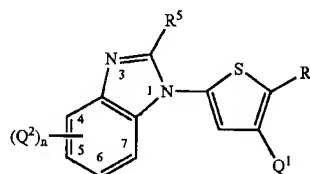
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(57) **ABSTRACT**

The present invention provides compounds of formula (1):

I



Correspondence Address:

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY,
MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC
27709-3398 (US)

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pharmaceutical compositions containing the same, processes for preparing the same and their use as pharmaceutical agents.

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 24, 2006

PTAS
GLAXOSMITHKLINE, CORP INTELLECTUAL PROP
FIVE MOORE DRIVE, PO BOX 13398
MAIN B475
RESEARCH TRIANGLE PA, NC 27529-3398

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ASSIGNOR:

MOREY, JAMES VAUGHAN

DOC DATE: 08/30/2005

ASSIGNEE:

GLAXO GROUP LIMITED
GLAXO WELLCOME HOUSE, BERKELEY AVE
GREENFORD, MIDDLESEX, UNITED
KINGDOM
UB6 ONN

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GLAXOSMITHKLINE, CORP INTELLECTUAL PROP
FIVE MOORE DRIVE, PO BOX 13398
MAIN B475
RESEARCH TRIANGLE PA, NC 27709

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BAMBOROUGH, PAUL

DOC DATE: 09/16/2005

ASSIGNOR:

MOREY, JAMES VAUGHAN

DOC DATE: 08/30/2005

ASSIGNEE:

GLAXO GROUP LIMITED
GLAXO WELLCOME HOUSE, BERKELEY AVE
GREENFORD, MIDDLESEX, UNITED
KINGDOM
UB6 ONN

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